

23 JUN 2003

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In re Application of	:	
KOLBECK et al.	:	
U.S. Application No. 09/926,792	:	DECISION ON RENEWED
PCT No.: PCT/EP00/05795	:	PETITION
Int. Filing Date: 23 June 2000	:	UNDER 37 CFR 1.47(a)
Priority Date: 25 June 1999	:	
Atty. Docket No.: KOLB3002/JEK	:	
For: METHOD FOR OPERATING A	:	
PORTABLE DATA CARRIER	:	
CONFIGURED FOR EXECUTING	:	
RELOADABLE FUNCTIONAL	:	
PROGRAMS	:	

This is a decision on applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 03 April 2003 to accept the application without the signature of joint inventor, Alexander Kolbeck.

BACKGROUND

On 23 June 2000, applicants filed international application PCT/EP00/05795 which claimed a priority date of 25 June 1999 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 January 2001. A Demand for international preliminary examination was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States was midnight, 26 December 2001 (25 December 2001 was a holiday).

On 20 December 2001, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; and a preliminary amendment.

On 01 February 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 29 July 2002, applicants filed a petition under 37 CFR 1.47(a) and a five-month extension of time. The petition under 37 CFR 1.47(a) was dismissed in a Decision dated 03 December 2002.

On 03 April 2003, applicants filed "Renewed Petition under 37 CFR 1.47(a)" and a two-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Applicants have satisfied items (1) and (3).

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Alexander Kolbeck. The steps taken by Mr. Branzka are sufficient to show that the non-signing inventor has refused to execute the application.

As to item (4), the declarations filed on 03 April 2003 are in compliance with 37 CFR 1.497. A review of the application papers reveal that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application will be given an international filing date of 23 June 2000 under 35 U.S.C. 363, and a date of **03 April 2003** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.



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In re Application of
KOLBECK et al.
U.S. Application No. 09/926,792
PCT No.: PCT/EP00/05795
Int. Filing Date: 23 June 2000
Priority Date: 25 June 1999
Atty. Docket No.: KOLB3002/JEK
For: METHOD FOR OPERATING A PORTABLE DATA CARRIER CONFIGURED FOR
EXECUTING RELOADABLE FUNCTIONAL PROGRAMS

Dear Mr. Kolbeck:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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